THE FOURTH DAY.

20th February 1919.

The Assembly met at 11-45 A. M. on Thursday, the 20th February, 1919.

46. Irregularities in the Judicial Department and suggestions for rectifying the same.

Mr. M. K. Madhavan Pillai (Member, Karunagapalli taluk) complained about long delays in the disposal of suits by the civil courts due to a variety of causes, of which the grant of numerous adjournments on trivial grounds was one. The result was that the arrears in the several courts were increasing year after year. The Member specially mentioned the following matters as requiring attention:—

(1) To avoid applications for adjournments from defendants for obtaining copies of plaints, as many copies of the plaint as there are defendants in a suit should be required to be filed by the plaintiff along with the plaint and one copy thereof should be sent to each defendant along with the summons.

Dewan.—The Civil Procedure Code Amendment Bill, now being drafted, makes provision for this.

(2) Copies of written statements should be similarly produced by the defendants in court and the same furnished to the plaintiffs.

(3) Ordinarily, the issues in a suit should be framed by the court on the day the written statements were filed ; but, in suits of a complicated nature, as soon as the written statement is filed, both the parties should be required to put in pleadings within two days ; in any case the issues should be framed within one week from the date of filing the written statement. The case should then be posted for trial, which should be pushed through without unnecessary adjournments. The rule regarding payment of day costs to the opposite side should be rigorously applied in the case of parties applying for adjournment. If the above procedure were adopted, the disposal of suits would take much shorter time than at present.

(4) The presiding officers of courts had not enough time to scrutinise the working of the Execution branch and, as a consequence, parties underwent a great deal of difficulty owing to the irresponsible manner in which the clerks in charge of that branch performed their duties. In courts in which there were Additional Munsiffs, those officers should be empowered to look after the work in the Execution branch, care being taken to appoint responsible and honourable men for work in that branch.

(5) According to the existing practice a party seeking to attach an immovable property had to produce a copy of the Settlement *chitta* in respect of all the properties of the debtor. That was a source of needless expense to the applicant. Extracts from the Settlement Register relating to the property to be attached should be declared to be sufficient in such cases.

(6) Parties also suffered heavily at the hands of the establishment in the copying section. Stringent instructions should be issued to the effect that applications for copies of records should be attended to in the order of receipt.

(7) In spite of the High Court's ruling that, if the first *Vakalath* authorised a Vakil to receive payments on behalf of his client, no fresh *Vakalath* was necessary, the production of a separate *Vakalath* was insisted on in some courts for applications for execution. The practice should be discontinued.

(8) Petitions reporting satisfaction of decrees and requesting the court to strike off the cases were required to be stamped in some courts. The practice should be stopped.

(9) The rule directing the refund of court-fees within three days of the application therefor was seldom observed in practice. It should be enforced.

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(10) Rigorous enforcement of the rules relating to the service of processes was necessary, as the process-servers did their work in a very perfunctory manner.

(11) The selection of commissioners must be made from among the members of the Bar in each court.

(12) A property-war register should be ordered to be maintained in the Sub-Registrars' Offices showing all the transactions relating to each property. Government officers should themselves check the encumbrances on each property and sign the *Villanga* certificates in token of their accuracy.

(13) The practice of granting *mozal* to judgment-debtors as obtaining at present was not to the advantage of the debtor or the creditor. They might be ordered to be let off on their own *kychits* as in the criminal courts.

(14) Separate petitions were insisted on in respect of copies of the several depositions in the same case. The levy of one petition fee should be sufficient in respect of all the depositions in a single case.

(15) Complaints of irregularities on the part of judicial officers brought to notice either by newspapers or otherwise should be promptly enquired into and the delinquents punished. The High Court should inspect each court at least once a year and check the irregularities, if any.

Dewan's reply.—The representation of the Member will be referred to the High Court for an expression of their views.

47. Suggestions regarding the administration of Civil Justice with special reference to the abolition of the Central Nazirat System.

Mr. R. Raman Pillai (Member, Quilon taluk) spoke of the difficulties experienced by the people and the officers of the Judicial Department on account of the Central Nazirat System. As a result of various representations and much correspondence on the subject, the Government passed orders in October 1914 to abolish the system, but effect had not been given to them, probably for want of funds. The present staff of amins and peons attached to the Nazirat could be distributed in some proportion among the courts at the station. The Head Clerk of the District Court, who had no work, could attend to the Nazir's duties also. The Assistant Nazir of the Principal Munsiff's Court could be made a clerk in the Additional Munsiff's Court and a clerk from the latter court appointed as Nazir of that Court. The Nazir of the Principal Court could continue as such. The above proposals would involve no additional cost. Speaking for the Quilon District, he said that there were at present 18 amins and 62 peons, and according to him, 7 amins and 22 peons should be allowed to the District Court, 6 amins and 22 peons to the Principal Court and 5 amins and 18 peons to the Additional Court. He represented that the scheme might be tried tentatively in the Quilon District Court, if it could not be introduced throughout the State. He then pressed the following points for the consideration of Government:—

(*a*) There was a good deal of delay in regard to the transfer of connected cases from the Principal to the Additional Munsiff's Court and *vice versa* at the same station on account of the rule that the sanction of the High Court was necessary for the transfer. It was desirable that, in regard to such cases, the courts themselves should have the power of transferring them, provided both the parties agreed to the transfer.

(*b*) Day after day, reports of escape of judgment-debtors from custody while under *mozal* were being made. In such cases, the courts simply ordered the peon concerned to prosecute the offender, but very few cases ended in conviction. In most instances, the alleged escape was the result of collusion of the peon with the judgment-debtor, and the decree-holder was in consequence subjected to great inconvenience and loss. It was necessary that the courts themselves should have the power to investigate the complaints and punish the offenders.

(*c*) According to the existing practice, attachment of immovable properties before judgment was not allowed in small cause suits. That worked hardship on the creditors. As soon as the suit was filed, the defendant alienated his properties

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